IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5886 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANTIBHAI RATILAL VASAVA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5886 of 2004

MR RAMNANDAN SINGH for Petitioner No. 1

MS AC RAVAL, AGP for Respondent No. 1-3

RULE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/08/2004

ORAL JUDGEMENT

By filing this petition, the petitioner-detenu has challenged his detention order dated 04-02-2004. By

the said order, the petitioner is detained as a "bootlegger" under PASA. Along with the order of detention, petitioner is also served with the grounds of detention. In the grounds of detention, there is a reference about five criminal cases pending against the petitioner. All these cases are under Bombay Prohibition Act. It is alleged that the petitioner is dealing in country liquor. The detaining authority has also relied upon statements of two witnesses. After being satisfied subjectively, the detaining authority has passed the order of detention against the petitioner, which is impugned in this petition.

2) Mr.Ramnandan Singh, learned advocate for the petitioner mainly argued that one document given to the petitioner is not at all legible and therefore, the petitioner is denied the right of effective representation and on this ground this petition is required to be allowed. He submitted that such document is finding place at page 127 of the compilation. Perusing the said document, it can be said that the document at page No.127 is not legible.

3) Ms.Raval, learned AGP, after perusing the said document, has submitted that it is an F.S.L. report. Even if that be so, at least legible copy is required to be given to the petitioner. Under these circumstances, the petitioner is required to be released on the ground of illegible document supplied to him, which document forms part of the detention order and on which the detaining authority has relied at the time of passing the order. Under these circumstances, this petition is required to be allowed.

4) At this stage, learned advocate for the petitioner has made a voluntary statement that the petitioner will not enter Vaghodia taluka upto 30th November, 2004. This statement is recorded and it is for the police authority to monitor the compliance of this statement.

5) Accordingly, this petition is allowed. The order of detention dated 04-02-2004 is quashed and set aside. The detenu, Kantibhai Ratilal Vasava is ordered to be set at liberty forthwith, if he is not required in connection with any other case. Rule is made absolute.

(P.B.Majmudar,J.)
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